



**DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING
ENFORCEMENT DIVISION
*DIRECTIVE***

**DIRECTIVE
NUMBER
301**

**DISTRIBUTION
DATE
October 1, 1998**

1. **SUBJECT: MAINTENANCE OF CASE FILES**
2. **PURPOSE:** To set forth the procedures for filing and maintaining case related material in the case file.
3. **BACKGROUND:** The case file is an official State record and should reflect all activity which has occurred during the processing of a complaint. Therefore, it is important that there be complete instructions to staff on case file maintenance. The procedures contained in this Directive are applicable to complaints accepted for investigation.
4. **PROCEDURES:**

A. File Folder:

For instructions on preparing the case file folder, refer to Enforcement Division Clerical Case Processing Manual, Case File Chapter.

B. Order of Material in Case Files:

1) Left Side:

The following documents will be stapled on the left side (ends of staples facing the inside):

- a) Case Diary (DFEH-400-06)
- b) Original signature complaint
- c) Blank EDP Update/Closure Report (DFEH-800-02)

2) Right Side:

The right side will be secured by an ACCO fastener, centered at the top of the folder. The file will be tabbed as specified below, and all documents within a tab will be filed in *reverse chronological order* (i.e., the most recently dated document on top, the oldest on the bottom).

- a) **INTAKE Tab:** This tab will include all intake material from the initial contact to, and including, the service letter.

- b) CONFIDENTIAL Tab: All materials that are normally considered "Confidential" (e.g., settlement documents *including* consultant notes on settlement discussions, memoranda from DFEH Legal staff, materials where confidentiality is pledged pursuant to Directive 302, "Receipt of Confidential Information," etc.) are to be maintained behind this tab.
- c) INVESTIGATION Tab: The bulk of the case file will be contained behind this tab. All material (other than confidential material) that is received after the service letter is mailed (from the respondent's response to the closing report) will be maintained behind this tab, including supervisory consultation notes.
- d) 3-6-9 EDP UPDATE FORM (DFEH-800-06): This form will be generated by the CMIS at the time the service letter is generated. This form will be secured in the case file in front of the "Investigation" tab where it will remain throughout the life of the file.

C. **Case Diary:**

- 1) The Case Diary (DFEH-400-06) is to be maintained in every file and will reflect all case activity and contacts with the complainant, respondent, or witnesses. All contacts are to be recorded whether they are in writing, by telephone or in person. There should be file notes corresponding to all Case Diary entries. For instance, if the Case Diary reflects that a telephone call was made to the complainant, the file should contain *legible* notes regarding the number(s) called, the time of the call, and the outcome of the call (e.g., complainant not home - left a message on answering machine, left message with complainant's brother, etc.) or a record of the conversation.
- 2) All entries must be *legible* and include the date and the initials of the person making the entry.
- 3) All entries on the Case Diary will be written in pen.
- 4) The detailed substance of supervisory advice, legal advice, and detailed notes *should not be recorded* in the Case Diary.
- 5) Information entered on the Case Diary should include all 3-6-9 Plan milestones and, at a minimum, all of the following is appropriate:
 - a) Service of complaint;
 - b) PDS attempt (no details);

- c) Contacts, or attempted contacts with respondent, complainant, and witnesses;
 - d) Issuance of subpoena or interrogatories;
 - e) Receipt of response;
 - f) Reply to subpoena or interrogatories;
 - g) Settlement discussion (without detail);
 - h) Case reviews;
 - i) Field visits;
 - j) Case conference;
 - k) Case reassignment;
 - l) Issuance of right-to-sue letters;
 - m) Date investigative finding discussed with the complainant
 - n) Date investigative report and 14-day letter submitted for review;
 - o) Formal conciliation conference;
 - p) Date case sent to Legal.
- 6) The Case Diary should include time spent on case processing activities as they occur. (Refer to Directive 315, "Time Tracking System.")

D. Documents:

- 1) **Drafts** of correspondence, reports, or discovery documents ***should not be*** retained in the case file. These should be destroyed when the official copy is finalized.
- 2) Documents and records received should be date stamped or dated and initialed by hand on the back of the document or, in the case of multi-page documents, on the back of the cover page.
- 3) Original documents ***are never to be marked on*** or written on in any way. A duplicate should be made for that purpose if necessary.
- 4) All portions of an original written reply or correspondence should be kept together (e.g., letters and attachments, response and exhibits, etc.).
- 5) Envelopes from all incoming correspondence should **not** be retained in the case file. However, all envelopes from correspondence sent by the Department which are returned (e.g., certified service letters where service has been refused, 30-day certified letters which are unclaimed, etc.) **should** be retained in the case file.

E. Notes:

- 1) All case file notes will be written on 8½" x 11" paper, and will be dated and initialed by the person making the entry.

- 2) Consultant interview notes will be written on lined paper and reflect the date and the initials of the interviewer.
- 3) All case file notes will be written in **pen only**, and must be **legible**. When feasible, case notes should be typed.
- 4) All case file notes will be written on one side of the paper only.
- 5) Notes from supervisory consultations will be written on a separate sheet of lined paper headed "consultation." Other memoranda containing instructions or advice from supervisory staff will also be retained.
- 6) Notes on small pieces of paper from desk pads, telephone notes, etc., should be transcribed into notes and/or stapled to an 8½" x 11" sheet of paper.
- 7) Notes of interviews with witnesses should:
 - a) be dated;
 - b) reflect the home address and home telephone number of the witness;
 - c) indicate whether the interview was by telephone or in person; and
 - d) reflect what the witness *actually said* (not a summary of the conversation).

F. Cases Referred to Legal for Accusation:

Case files referred to the Legal Division for the issuance of an accusation require special tabbing. Refer to Directive 312, "Progress Memos" for information.

5. APPROVAL:

Nancy C. Gutierrez, Director

Date